

**UNITED STATES DISTRICT COURT**  
**DISTRICT OF NEVADA**

FRANK M. PECK,

Plaintiff

v.

STATE OF NEVADA, et al.,

Defendants

Case No.: 2:18-cv-00237-APG-VCF

**Order Denying Motions to Reconsider**

[ECF Nos. 192, 201, 203]

Plaintiff Frank Peck moves for reconsideration of the portion of my order (ECF No. 191) dismissing his Eighth Amendment claim against defendant Duane Wilson for failing to provide Peck with his medical diet. ECF No. 192. Peck also filed a motion/notice that the defendants did not oppose his motion for reconsideration. ECF No. 203. Finally, Peck moves for reconsideration of Magistrate Judge Ferenbach's order (ECF No. 199) that denied Peck's motion for law library access. ECF No. 201.

A district court "possesses the inherent procedural power to reconsider, rescind, or modify an interlocutory order for cause seen by it to be sufficient," so long as it has jurisdiction. *City of L.A., Harbor Div. v. Santa Monica Baykeeper*, 254 F.3d 882, 885 (9th Cir. 2001) (simplified); *see also Moses H. Cone Mem'l Hosp. v. Mercury Constr. Corp.*, 460 U.S. 1, 12 (1983) (citing Fed. R. Civ. P. 54(b)). "Reconsideration is appropriate if the district court (1) is presented with newly discovered evidence, (2) committed clear error or the initial decision was manifestly unjust, or (3) if there is an intervening change in controlling law." *Sch. Dist. No. 1J, Multnomah Cnty., Or. v. ACandS, Inc.*, 5 F.3d 1255, 1263 (9th Cir. 1993). A district court also may reconsider its decision if "other, highly unusual, circumstances" warrant it. *Id.* "A motion

1 for reconsideration is not an avenue to re-litigate the same issues and arguments upon which the  
2 court already has ruled.” *In re AgriBioTech, Inc.*, 319 B.R. 207, 209 (D. Nev. 2004).

3 I deny Peck’s motion to reconsider my dismissal order because I find no basis to alter my  
4 decision. I deny Peck’s motion/notice because it is not a motion but merely a notice that the  
5 defendants did not file an opposition.

6 I deny Peck’s motion to reconsider Judge Ferenbach’s order because Peck has not  
7 identified any denial of access to the law library in relation to this case. If Peck is being denied  
8 law library access in a manner that impacts his ability to meet deadlines or respond to motions in  
9 another case, he must address that issue in that other case. This lawsuit is not a means for Peck  
10 to pursue generalized grievances with the prison or its staff.

11 I THEREFORE ORDER that plaintiff Frank Peck’s motion for reconsideration (**ECF No.**  
12 **192)** is **DENIED**.

13 I FURTHER ORDER that plaintiff Frank Peck’s motion for reconsideration (**ECF No.**  
14 **201)** is **DENIED**.

15 I FURTHER ORDER that plaintiff Frank Peck’s motion/notice (**ECF No. 203)** is  
16 **DENIED**.

17 DATED this 22nd day of September, 2022.

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20 ANDREW P. GORDON  
21 UNITED STATES DISTRICT JUDGE  
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